

By: McCall

H.B. No. 3189

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the exclusion of certain commercial lease revenue in
3 determining a taxable entity's total revenue for purposes of the
4 revised franchise tax.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 171.1011(g), Tax Code, is amended to
7 read as follows:

8 (g) A taxable entity shall exclude from its total revenue,
9 to the extent included under Subsection (c)(1)(A), (c)(2)(A), or
10 (c)(3), only the following flow-through funds that are mandated by
11 contract to be distributed to other entities:

12 (1) sales commissions to nonemployees, including
13 split-fee real estate commissions;

14 (2) the tax basis as determined under the Internal
15 Revenue Code of securities underwritten; ~~and~~

16 (3) subcontracting payments handled by the taxable
17 entity to provide services, labor, or materials in connection with
18 the actual or proposed design, construction, remodeling, or repair
19 of improvements on real property or the location of the boundaries
20 of real property; and

21 (4) payments received by a landlord of commercial real
22 property from a tenant of the property to reimburse the landlord for
23 ad valorem taxes, franchise taxes, any tax or excise imposed on
24 rents, general or special assessments or other taxes, operating

1 expenses, including property and other insurance expenses,
2 utilities, maintenance expenses, management expenses, and similar
3 amounts generally expended for commercial real property.

4 SECTION 2. This Act applies only to a report originally due
5 on or after the effective date of this Act.

6 SECTION 3. This Act takes effect January 1, 2010.